

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



MARKET SURVEY

The Office of the Attorney General for the District of Columbia (“OAG”) is sending out this market survey to research the availability of qualified law firms to provide legal and consulting services in support of OAG’s efforts to address a severe increase in noise associated with air traffic from Ronald Reagan Washington National Airport (“Reagan National”).

THE CLIENT

OAG is responsible for the District of Columbia’s law business, including representing the District government and its agencies in litigation and administrative proceedings. OAG also has independent authority to intervene in litigation on behalf of the public interest. In this instance, the District is contemplating litigation or other measures on behalf of its residents to address the impact of increased air traffic noise within the District. OAG will manage the litigation. The contractor will work closely with OAG attorneys to identify and assess alternatives to address the noise issue, including the possibility of administrative and regulatory challenges, litigation, or other means of dispute resolution.

BACKGROUND

Reagan National is located in Arlington, Virginia, along the banks of the Potomac River. Historically, flights entering and leaving Reagan National traversed a course over Rosslyn, Virginia, before intersecting the Potomac River near the northern-most part of the District.

In 2004, Reagan National’s FAR Part 150 Advisory Committee recommended to the Washington Metropolitan Airport Authority that a working group be formed to develop advanced navigation procedures that would shift Reagan National flight paths away from populated areas and over the center of the Potomac River.

Although the Federal Aviation Administration (“FAA”) rejected the advisory committee’s recommendation in 2008 for Part 150 purposes, a working group had already been formed to consider this proposal.

Between 2008 and 2011 the “LAZIR RNAV SID” flight path was developed by the FAA working group. This flight path shifted departing Reagan National air traffic to the east, over the Potomac River, and closer to the District. The FAA initially applied a categorical exclusion to the LAZIR

flight path, finding that review under the National Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq.* (“NEPA”) was not required because noise modeling indicated that noise increases would not be “significant” within the meaning of the statute. The FAA implemented the new LAZIR flight path between 2011 and 2015 as part of the Next Generation Air Transportation System (“NextGen”).

The FAA maintains that LAZIR, although initially subject to a categorical exclusion, underwent a full environmental assessment in 2013 as part of the Washington D.C. Optimization of the Airspace and Procedures in the Metroplex initiative. The FAA issued its Record of Decision and Finding of No Significant Impact (“FONSI”) for the Metroplex procedures in December 2013. After additional testing, the new LAZIR flight procedures were published in the Terminal Procedures Publication on April 30, 2015 and June 25, 2015.

The new LAZIR flight paths have significantly increased noise over Georgetown and other parts of the District. The increase has led to numerous complaints from residents near the flight paths and has prompted several civic associations to jointly petition for judicial review of the FAA’s decision to adopt LAZIR. *Citizens Assoc. of Georgetown v. FAA*, No. 15-1285 (D.C. Cir.). This case is fully briefed and scheduled for argument on January 11, 2018.

The civic organizations’ petition for review argues that publication of the flight paths in 2015 was a final order subject to administrative review. The FAA maintains that the final order was the December 2013 FONSI and, as such, the associations’ challenge is untimely. The FAA advances other procedural defenses and, on the merits, maintains that it complied with NEPA. The District has not intervened in this litigation.

In response to citizen complaints, the Council for the District of Columbia appropriated funds for a noise study of the affected area. The District of Columbia Department of Energy and Environment is currently overseeing that testing through a private contractor.

SCOPE OF SERVICES

If the D.C. Circuit rejects the civic associations’ challenge to the FAA’s implementation of the LAZIR flight paths, the District would like to know what options it has to engage the FAA in efforts to abate the noise problem—including administrative and regulatory challenges, litigation, or other efforts.

Thus, the District is seeking a written opinion regarding:

- (1) the likelihood the civic associations will succeed in their suit; and
- (2) the District’s options for challenging the flight paths or seeking other relief if the civic associations’ suit fails.

The District also expects that additional consultation services may be sought once a course of action has been decided upon.

DESIRED EXPERICE

OAG will represent the client, but requires the service of a firm with experience before federal regulatory bodies, particularly the FAA, as well as experience with airport-related noise abatement and NEPA enforcement.

FEES AND COSTS

The initial period of performance is projected to be six months from date of award. OAG anticipates that the selected law firm will provide these services at a substantially discounted hourly rate. In providing your rates, please specify the discount OAG will receive.

SUBMISSION OF QUALIFICATIONS

Interested firms shall submit the following by email to OAG.businessopportunities@dc.gov no later than December 26, 2017 at 5:00pm.

1. A statement of interest, including a detailed description of the firm's relevant experience;
2. Resumes of those who will be providing services;
3. References for similar work performed for private citizens or government entities in the last seven years, including contact information and a description of work performed;
4. A rate/fee schedule showing fully loaded rates for those providing services;
5. A description of anticipated or other direct costs associated with fulfilling the requirements;
6. A completed Master Supplier Information Collection form (visit supplier.ariba.com), along with a completed W-9.

OAG reserves the right to schedule one-on-one telephone interviews with firms that respond to this request, and the District expects to make its selection of firm based upon the best interests of the District, in accordance with Section 413 of the Procurement Practice Reform Act of 2010. Law firms certified as business enterprises by the District of Columbia Department of Small and Local Business Development pursuant to §2-218.31 *et seq.* are encouraged to apply. OAG values diversity as well as working with firms located in the District of Columbia metropolitan area.

If you have any questions, feel free to contact Sanaz Etminan, Contracting Officer, Sanaz.Etminan@dc.gov
